



Mintzer Sarowitz
Zeris Ledva & Meyers LLP

39 Broadway
Suite 950
New York, NY 10006
Tel: 212.968.8300
Fax: 212.968.9840

www.DefenseCounsel.com

E-mail: tdarmody@defensecounsel.com

File No. 003976.000001

November 1, 2021

Via E-Filing

District Judge Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, New York 10007

MEMO ENDORSED

**RE: SUSAN PETERSEN v. 234 WEST 48 LLC, THE GALLIVANT TIMES
SQUARE, INTERSTATE HOTELS & RESORTS, INC., INTERSTATE
MANAGEMENT COMPANY, LLC, and INTERSTATE OPERATING
COMPANY, LP
Docket No. 19-cv-5063 (KPF)**

Dear Judge Failla:

We represent the defendants in the captioned matter. I am writing concerning the trial of this matter. As the Court is aware, this case is currently scheduled for a jury trial during the week of December 6, 2021. In the most recent correspondence from the court, we were advised that it is quite possible that the trial may not take place during that week.

We advised our expert liability witness, Dr. William Marletta, of this trial date and the uncertainty of whether the case would proceed at that time or not. We have now been advised that Dr. Marletta is scheduled to testify in a separate trial during that same week, although the dates are not certain at this time. While the defendants are prepared to proceed with our fact witnesses, we are placed in a situation of seeking a very short adjournment of the trial to accommodate the schedule of our expert witness.

I am still attempting to find out exactly what days Dr. Marletta will be on trial in his other action and I am hopeful that some accommodation can be made concerning his testimony, but I am also mindful of the Court's schedule and plaintiff's need to travel to New York from out of state.

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Thank you for your courtesy and cooperation.

Respectfully yours,

Thomas G. Darmody

THOMAS G. DARMODY (TGD 8368)

TGD/bms

The Court is in receipt of Defendants' above letter.

Given the uncertainty surrounding both the availability of Defendants' expert witness and the trial date in this matter, the Court believes that Defendants' request for an adjournment of the trial is premature. Accordingly, Defendants' request is DENIED without prejudice to renew.

Defendants are directed to provide the exact dates and times that their expert witness is unavailable as part of any future application to adjourn the trial.

The Clerk of Court is directed to terminate the motion at docket entry 40.

Dated: November 2, 2021
New York, New York

SO ORDERED.

Katherine Polk Failla

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE